

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05-CR-00046-RJC-DSC

USA

v.

CURTIS ARNOLD (2)

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ORDER

THIS MATTER is before the Court upon a letter motion by the defendant pro se again attacking his sentence in light of United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc). (Doc. No. 151).

The defendant claims a prior state conviction is inadequate to enhance his sentence under 21 U.S.C. § 851; however, “it is well established that defendants convicted in federal court are obliged to seek habeas relief from their convictions and sentences through [28 U.S.C.] § 2255. Rice v. Rivera, 617 F.3d 802, 807 (4th Cir. 2010). Here, the defendant previously filed a motion under § 2255, (Case No. 3:10-cv-453), which the Court denied, (Doc. No. 34: Order), and the United States Court of Appeals for the Fourth Circuit did not disturb on appeal, (Doc. No. 44: Opinion). He has not shown that he has been granted permission to file a second or successive § 2255 motion. Therefore, the Court is without jurisdiction to consider the instant motion. United States v. Williams, 621 F. App’x 212 (4th Cir. 2015) (district court lacked jurisdiction to consider motion that was in substance a successive § 2255 motion).

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 151), is **DISMISSED**.

Signed: August 6, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

